

AFFIDAVIT

1. **AFFIANT/AGENT.** I, Maxwell Loehlein, a Border Patrol Agent of the United States Border Patrol, Customs and Border Protection, have been employed by the USBP/CBP for approximately fourteen years and am currently assigned to the Border Patrol Station at Pembina, North Dakota.
2. Your affiant has reason to believe that Ernesto Flacon Jr. (DOB: XX/XX/1985), hereinafter Falcon and Rodolfo Arzola-Carrillo (DOB XX/XX/1984) hereinafter Arzola that they knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry in violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I).
3. **INITIAL ENCOUNTER.** On November 17, 2022 at approximately 3:34 a.m. the Pembina County Sheriff's Office (PCSO) received a motorist assistance call. The call was apparently made by Falcon. Falcon informed PCSO that his vehicle was stuck in the ditch near the intersection of Pembina County Road 55 and 138th Ave, and that he was walking with his family on County Road 55. PCSO Deputy Swift responded to the call. At the time the weather conditions were rapidly deteriorating due to the temperature, snow, and wind. Deputy Swift encountered a total of nine subjects by the intersection of County Road 55 and 135th Ave. Deputy swift observed that all the subjects were dressed in heavy winter clothing and appeared to be prepared for the weather conditions. Falcon requested that he and the other subjects be taken to a hotel. All these factors led Deputy Swift to suspect that there was a possible smuggling attempt. PCSO then transported all nine subjects to the PCSO in Cavalier, North Dakota.
4. At approximately 4:36 a.m. Border Patrol Agent (BPA) Cole was alerted by Grand Forks Sector Dispatch that the PCSO had received a call for asking for assistance with a group of stranded motorists on Pembina County Road 55 just west of Neche, North Dakota. BPA Cole contacted Deputy Swift via cellular telephone and received the biographical information of the subjects that were encountered. BPA Cole conducted records checks on the subjects via Grand Forks Sector Radio Room.
5. At approximately 6:15 a.m. BPA Russel arrived at the PCSO in Cavalier. BPA Russel encountered the following subjects there: HERNANDEZ-Ruiz, Naomi Patricia; MATEOS-Lopez, Gabriela; OCHOA-Casillas, Luis Angel; OCHOA-Torres, Brayan Jesus; OCHOA-Casillas, Juan; OCHOA-Mateos, Aledia; TORRES-Mendoza, Marth Yessica; ARZOLA-Carrillo, Rodolfo; and FALCON, Ernesto
6. All the subjects admitted to BPA Russel to being illegally present in the United States. All the subjects were then transported to the Border Patrol Station in Pembina, North Dakota for processing. At the station Falcon told BPA Russel that he misunderstood him when BPA Russel was questioning him and stated that he is a United States citizen. Luis Ochoa-Casillas and Martha Torres-Mendoza told BPA Russel that they had crossed into

the United States from Canada and that Falcon and Arzola had walked across the border (from the United States into Canada) to guide them across the border into the United States.

7. **POST-ARREST INVESTIGATION.** At the Pembina Border Patrol Station, a custodial interview on Falcon was conducted by BPAs Backes, Hugley, and Froese. BPA Froese, witnessed by BPA Backes notified Falcon of his Miranda Rights per Service Form I-214. Falcon acknowledged his rights by signing the Service Form I-214 and was willing to answer questions without an attorney present.
8. Falcon stated that he lives in Tifton, Georgia, where he was born and raised. Falcon also said that he is currently working for Arzola Construction, which is based in Georgia. Falcon stated that he met Arzola through his job, and that he has known Arzola for approximately two years. Falcon said that Arzola had approached him about the possibility of "doing some extra work" by smuggling aliens across the United States border last year. Falcon told Arzola that he was not interested in doing that. Within the last several months, however, Falcon started having marriage difficulties that lead to divorce. Falcon stated that this led to financial difficulties for him. Arzola then offered Falcon the opportunity to earn some extra money by helping him with picking up aliens who had just crossed the border. At that time Falcon accepted the offer. Falcon usually gets paid \$500-\$1,000 per subject.
9. Falcon stated that Arzola had purchased a Chevrolet Tahoe for him and that it was registered in Falcon's name. Falcon stated that the reason Arzola had purchased the Tahoe was because Arzola is an illegal alien, and that he has no Georgia driver's license. Falcon also said that the reason Arzola had approached him for help is since Arzola cannot drive due to being unable to acquire a driver's license.
10. Falcon stated that he and Arzola had previously picked up four groups (two in September and two in October) of border crossers in North Dakota. After Falcon and Arzola would pick up the groups they drive south on Interstate 29 and then head east on Interstate 94. Falcon stated that Arzola makes would make arrangements with family members of the groups to meet at different places along the interstate highway. Falcon further stated that Arzola is person who makes all the arrangements related to picking up subjects, crossing the border, meeting locations with family members, and payments.
11. Falcon stated that he and Arzola had left Tifton, Georgia, on November 14, 2022, and arrived in Cavalier, North Dakota, on November 16 between 12:00 and 1:00 a.m. Between 2:00 and 3:00 a.m., Falcon was driving in his Tahoe with Arzola in the area around Cavalier when he struck a deer. The vehicle was towed to back to Cavalier. At that time, they checked into the Cedar Inn in Cavalier.
12. Falcon stated that he and Arzola tried to get the Tahoe repaired. He stated that they were unable to fix the Tahoe themselves. Falcon then said that Arzola had bought a van (black van ND 439 DHB) for \$1000 from some white guy. He did not know any other details about how the van was purchased.

13. Falcon stated that on November 17, 2022, he and Arzola left the Cedar Inn in Cavalier between 12:30 and 1:00 am to pick up the aliens they were going to smuggle this trip. Falcon stated that Arzola told him where to go. He stated that when they got up to the border area, he got the van stuck in the snow. Then Falcon and Arzola got out of the van and started walking north. Falcon stated that they had walked for approximately 30-40 minutes before they met the group that was walking south. Falcon also said that he doesn't know if he entered Canada or not when he and Arzola were walking north. He also said that he and Arzola walked south with the group to County Road 55 and decided to call the sheriff's office due to the cold weather and worries about the two children in the group, one age 9, the other age 4.
14. On November 17, 2022, Arzola was also advised of his Miranda rights per Service Form I-214 in the Spanish language by BPA Backes and witnessed by BPA Loehlein. Arzola acknowledged his rights by signing the Service Form I-214 and was willing to answer questions without an attorney present. A custodial interview was conducted on Arzola by BPA Backes, Froese, and Loehlein. Arzola stated that a person in Michoacan, Mexico had contacted him if he could help get his family into the United States. Arzola stated that this person was one of the people in the group but could not identify him. Arzola stated that he and Falcon had left the Cedar Inn this morning (November 17, 2022) in the van. Arzola claims that he was never paid, but that the people in the group were going to pay him \$500 for gas once they got to their destination. Arzola said that their ultimate destination was Georgia.

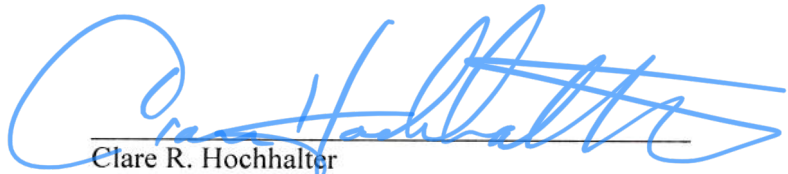
In my experience, the above facts constitute a violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I).

The foregoing is true and correct to the best of my knowledge and belief.



Maxwell Loehlein
United States Border Patrol Agent

Subscribed and sworn by reliable electronic means, this 18th day of November, 2022.



Clare R. Hochhalter
United States Magistrate Judge